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REMARKS

The Applicant wishes to thank the Examiner for the careful consideration of the application, and for allowing claims 44 – 47.

Claims 1 – 47 were in the application. Claims 1, 2, 12, 13, 21, 22, 32, 33, 41, and 42 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by Walker (US 2002/0030714). Claims 3 and 23 were rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Walker in view of Hmelar et al (US 6,183,077). Claims 4, 7 – 9, 10, 14, 17 – 19, 24, 27 – 30, 34, and 37 – 39 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of Kosugi (US 6,585,345). Claims 5, 15, 25, and 35 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walker and Kosugi, and further in view of Trafton et al. (US 2003/0043243). Claim 6, 16, 26, and 36 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walker and Kosugi, and further in view of Hmelar. Claims 11, 31, and 43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walker in view of Haines (US 6,808,255). Claims 20 and 40 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walker and Kosugi, and further in view of Haines. Claims 44 – 47 were allowed by the Examiner.

The rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) are respectfully traversed.

The Rejections Under 35 U.S.C. §102(b)

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor*

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Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). MPEP 2131.

Walker (US 2002/0030714) is the basis for the Examiner's rejections under 35 U.S.C. §102(b). Contrary to the Examiner's assertion, Walker fails to show a memory device having a body shaped to seal or cork a fill port of a container for a consumable substance.

The Applicant has carefully reviewed Walker and finds that it is silent on how the container is initially filled with a consumable substance (e.g., ink), and on how the filling port is then subsequently sealed. The Applicant believes that the Examiner has read into Walker something that simply isn't there. For the purpose of assisting the Examiner in better understanding Walker, the Applicant wishes to draw the Examiner's attention to annotated versions of Figure 2 of Walker and Figure 2A of an earlier issued patent, US 6,039,430 (Helterline et al.), both of which are attached to this response.

Referring first to the container shown in Helterline et al., as shown in Attachment I, the complete container 18 comprises an upper portion "A", which includes the ink reservoir 28, and a lower portion "B", which includes both an ink interface 30 and an electrical interface 38. It will be noted that the original drawing without annotations does not include a fill port. During manufacture of this type of container, the part of the container designated "A" on Attachment I typically travels down an assembly line upside down and ink is injected through a fill port, the approximate location of which is sketched on Attachment I. When filling is complete, the fill port is then plugged with a tight-fitting metal ball. Only after the container is filled and the fill port plugged is the part of the container designated "B" (which includes the small circuit board with the memory chip 38 and electrical contacts 40) attached. The small circuit board comprising the memory device is therefore in the vicinity of the previously sealed fill port, but plays absolutely no part in sealing the fill port.

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Attachment II is Figure 2 from Walker, US 2002/0030714. One difference between Helterline et al. and Walker is that the memory device in Walker is wireless, and thus no electrical contacts are required (to the Applicant's knowledge no containers exactly matching the configuration depicted in Walker have been manufactured; the memory device in Walker is represented as a simple rectangle on Figure 2 in part because engineering details had yet to be completed). Walker clearly indicates that callout 38 is the wireless electronic "linking device" of the container and callout 42 is the corresponding wireless electronic "linking device" of the printer portion. Neither device performs any mechanical or fluidic function with respect to the contained substance (e.g., ink), and nowhere in Walker is it indicated, suggested, or implied that the container "linking device" provides a fluidic seal of any sort. As in Helterline et al., the fill port of the container is not shown in the unannotated drawings nor discussed in the specification of Walker.

The Applicant notes that the ink output port of the container shown in Figure 2 of Walker comprises callout 30, which is coupled to callout 32 when the container is installed in the printer. The ink path is thus entirely on the left side of the exemplary container as depicted in Figure 2. The Examiner appears to be misinterpreting Figure 2 of Walker as showing linking device 38 providing a seal to ink reservoir 28; this is absolutely not the case. While the design of the exemplary container used to illustrate the invention of Walker results in the "linking device" being in the vicinity of the ink reservoir, the Examiner is incorrect to suggest that the linking device is used to seal the reservoir.

Since Walker does not disclose a memory device having a body shaped to seal or cork a fill port of a container for a consumable substance, an element of each of the claims rejected under 35 U.S.C. §102(b) is not present in the reference, and the Applicant therefore requests that the rejections under 35 U.S.C. §102(b) be withdrawn.

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The Rejections Under 35 U.S.C. §103(a)

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). MPEP 2143.03

All of the Examiner's rejections under 35 U.S.C. §103(a) are based on the Examiner's assertion that Walker discloses a memory device having a body shaped to seal or cork a fill port of a container for a consumable substance. As discussed above, the Applicant believes the Examiner has misinterpreted Walker, and that the memory device of Walker performs no such sealing function.


Accordingly, a claim limitation of each of the claims rejected under 35 U.S.C. §103(a) is in fact not present in the cited prior art. The Applicant requests that the rejections of claims 3 – 11, 14 – 20, 23 – 31, 34 – 40, and 43 under 35 U.S.C. §103(a) therefore be withdrawn.

The Applicants believe that the claims remaining in the application are allowable, and favorable action by the Examiner is respectfully requested.

Respectfully submitted,

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